

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

Case No. VN-2010-294

QUANG MINH NGUYEN
8672 Pacheco Avenue
Westminster, CA 92683

Vocational Nurse License No.
VN 264457

Respondent.

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 14, 2012.

IT IS SO ORDERED this 14th day of November, 2012.



Todd D'Braunstein, PT
President

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

Case No. VN-2010-294

13 **QUANG MINH NGUYEN**
14 **8672 Pacheco Avenue**
Westminster, CA 92683

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 **Vocational Nurse License No. VN 264457**

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 **PARTIES**

21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive Officer of the
22 Board of Vocational Nursing and Psychiatric Technicians. On or about May 13, 2011, she filed a
23 Statement of Issues, solely in her official capacity, against Respondent Quang Minh Nguyen
24 denying his application for a Vocational Nurse License. She was represented in that action by
25 Kamala D. Harris, Attorney General of the State of California, by Amanda Dodds, Senior Legal
26 Analyst.

27 2. As a consequence of the Statement of Issues, described in Paragraph 1 above,
28 Respondent signed a "Stipulated Settlement and Disciplinary Order," a copy of which is attached

1 hereto as Exhibit 1, that was adopted by the Board and effective on February 5, 2012. By its
2 terms, a Vocational Nurse License was issued to Respondent and immediately revoked. The
3 revocation was stayed and three (3) years probation was imposed on the terms and conditions set
4 forth therein. The Vocational Nurse License is in full force and effect, and will expire on August
5 31, 2013, unless renewed. Respondent's Vocational Nurse License remains on probation at the
6 present time.

7 3. Respondent is representing himself in this proceeding and has chosen not to exercise
8 his right to be represented by counsel.

9 JURISDICTION

10 4. By letter dated July 5, 2012, Respondent requested that the Board accept his
11 voluntary surrender of Vocational Nurse License No. VN 264457 as discipline imposed under
12 Term No. 12 of the Stipulated Settlement and Disciplinary Order (Exhibit 1 hereto).

13 5. Term No. 12 of the Stipulated Settlement and Disciplinary Order provides that during
14 his probationary period, Respondent may surrender his license to the Board if he is not able to
15 satisfy the conditions of probation. The Board retains the right to evaluate Respondent's request
16 and to exercise its discretion whether to grant the request without further hearing.

17 ADVISEMENT AND WAIVERS

18 6. Respondent also has carefully read, and understands the effects of this Stipulated
19 Surrender of License and Order.

20 7. Respondent is fully aware of his legal rights in this matter, including the right to be
21 represented by counsel, at his own expense; the right to confront and cross-examine the witnesses
22 against him; the right to present evidence and to testify on his own behalf; the right to the
23 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
24 the right to reconsideration and court review of an adverse decision; and all other rights accorded
25 by the California Administrative Procedure Act and other applicable laws.

26 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
27 every right set forth above.

28 ///

1 **CULPABILITY**

2 9. Respondent understands and agrees that should the Board adopt this Stipulated
3 Surrender of License and Order, that it will constitute the imposition of discipline against
4 Respondent. Respondent further agrees that cause exists for the surrender of Vocational Nurse
5 License No. VN 264457 for the Board's formal acceptance. Respondent understands that by
6 signing this stipulation he enables the Board to issue an order accepting the surrender of his
7 Vocational Nurse License without further process.

8 **CONTINGENCY**

9 10. This stipulation shall be subject to approval by the Board of Vocational Nursing and
10 Psychiatric Technicians. Respondent understands and agrees that counsel for Complainant and
11 the staff of the Board of Vocational Nursing and Psychiatric Technicians may communicate
12 directly with the Board regarding this stipulation and surrender, without notice to or participation
13 by Respondent. By signing the stipulation, Respondent understands and agrees that he may not
14 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
15 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
16 Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
17 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
18 be disqualified from further action by having considered this matter.

19 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
20 License and Order, including facsimile signatures thereto, shall have the same force and effect as
21 the originals.

22 12. This Stipulated Surrender of License and Order is intended by the parties to be an
23 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
24 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
25 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
26 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
27 executed by an authorized representative of each of the parties.

28 ///

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Vocational Nurse License No. VN 264457, issued to Respondent Quang Minh Nguyen, is surrendered and accepted by the Board of Vocational Nursing and Psychiatric Technicians.

1. The surrender of Respondent's Vocational Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Vocational Nursing and Psychiatric Technicians.

2. Respondent shall lose all rights and privileges as a Licensed Vocational Nurse in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Statement of Issues No. VN-2010-294 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall not apply for licensure or petition for reinstatement for three (3) years from the effective date of the Board of Vocational Nursing and Psychiatric Technicians's Decision and Order.

///

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

DATED:


 MINH NGUYEN

ENDORSEMENT

Dated:

Respectfully submitted,

Amanda Dodge

5

Exhibit A

Statement of Issues No. VN-2010-294

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

Case No. VN-2010-294

QUANG MINH NGUYEN
8672 Pacheco Avenue
Westminster, CA 92683

Applicant for Vocational Nurse License

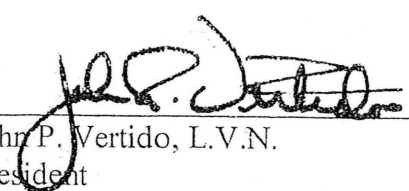
Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians as the final Decision in the above-entitled matter.

This Decision shall become effective on February 5, 2012.

IT IS SO ORDERED this 6th day of January, 2012.



John P. Vertido, L.V.N.
President

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

13 **QUANG MINH NGUYEN**
14 **8672 Pacheco Avenue**
15 **Westminster, CA 92683**

16 Respondent.

Case No. VN-2010-294

OAH No. 2011070591

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive Officer of the
21 Board of Vocational Nursing and Psychiatric Technicians. She brought this action solely in her
22 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
23 State of California, by Amanda Dodds, Senior Legal Analyst.

24 2. Quang Minh Nguyen (Respondent) is representing himself in this proceeding and has
25 chosen not to exercise his right to be represented by counsel.

26 3. On or about June 24, 2010, Respondent filed an application dated June 21, 2010, with
27 the Board of Vocational Nursing and Psychiatric Technicians to obtain a Vocational Nurse
28 License.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JURISDICTION

4. Statement of Issues No. VN-2010-294 was filed before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on June 28, 2011. A copy of Statement of Issues No. VN-2010-294 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. VN-2010-294. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. VN-2010-294.

9. Respondent agrees that his Vocational Nurse License application is subject to denial and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

///
///
///

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Vocational Nursing and Psychiatric Technicians. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Vocational Nursing and Psychiatric Technicians may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that after completion of all requirements for licensure, a Vocational Nurse License will be issued to Respondent Quang Minh Nguyen and immediately revoked. The revocation will be stayed and Respondent placed on three (3) years probation on the following terms and conditions.

1 1. **OBEY ALL LAWS.** Respondent shall obey all federal, state and local laws,
2 including all statutes and regulations governing the license. Respondent shall submit, in writing, a
3 full and detailed account of any and all violations of the law, including alleged violations, to the
4 Board within five (5) days of occurrence.

5 To ensure compliance with this condition, respondent shall submit fingerprints through the
6 Department of Justice and Federal Bureau of Investigation within thirty (30) days of the effective
7 date of the decision, unless the Board determines that fingerprints were previously submitted by
8 the respondent to the Board.

9 Respondent shall also submit to the Board a recent 2" x 2" photograph of himself within
10 thirty (30) days of the effective date of the decision.

11 If Respondent is under a criminal court order, including probation or parole, and the order
12 is violated, it shall be deemed a violation of these probation conditions.

13 2. **COMPLIANCE WITH PROBATION PROGRAM.** Respondent shall fully
14 comply with the conditions of probation established by the Board and shall cooperate with
15 representatives of the Board in its monitoring and investigation of the respondent's compliance
16 with the Probation Program.

17 Upon successful completion of probation, the respondent's license will be fully restored.

18 3. **SUBMIT WRITTEN REPORTS.** Respondent shall submit or cause to be
19 submitted, under penalty of perjury, any written reports, declarations and verification of actions
20 as required by the Board or its representatives. These reports or declarations shall contain
21 statements relative to respondent's compliance with all the conditions of the Board's Program.
22 Respondent shall immediately execute all release of information forms as may be required by the
23 Board or its representatives.

24 In the first report, Respondent shall provide a list of all states and territories where he has
25 ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse.
26 Respondent shall provide information regarding the status of each license and any change in
27 license status during the period of probation. Respondent shall inform the Board if he applies for
28 or obtains a new nursing or psychiatric technician license during the period of probation.

Respondent shall provide a copy of the Board's decision to the regulatory agency in every state and territory in which he has applied for or holds a vocational/practical nurse, psychiatric technician and/or registered nurse license.

4. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S).

Respondent shall notify the Board, in writing, within five (5) days of any change in address or telephone number(s).

Respondent's failure to claim mail sent by the Board may be deemed a violation of these probation conditions.

5. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE.

Respondent shall notify the Board, in writing, within five (5) days, if he leaves California to reside or practice in another state. Periods of residency or practice outside of California shall not apply toward a reduction of this probation time period. If Respondent resides or practices outside of California, the period of probation shall be automatically extended for the same time period he resides or practices outside of California. The respondent shall provide written notice to the Board within five (5) days of any change of residency or practice.

Respondent shall notify the Board, in writing, within five (5) days, upon his return to California.

6. MEETINGS WITH BOARD REPRESENTATIVE(S). Respondent shall appear in person at meetings as directed by the Board or its designated representatives.

7. NOTIFICATION TO EMPLOYER(S). When currently employed or applying for employment in any capacity in any health care profession, Respondent shall notify his employer of the probationary status of Respondent's license. This notification to the Respondent's current health care employer shall occur no later than the effective date of the Decision. The respondent shall notify any prospective health care employer of his probationary status with the Board prior to accepting such employment. At a minimum, this notification shall be accomplished by providing the employer or prospective employer with a copy of the Board's Statement of Issues and Disciplinary Decision.

///

1 The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse,
2 Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical
3 Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical
4 health care positions.

5 Respondent shall cause each health care employer to submit to the Board all performance
6 evaluations and any other employment related reports as required by the Board. Respondent shall
7 notify the Board, in writing, of any difficulty in securing employer reports within five (5) days of
8 such an event.

9 Respondent shall notify the Board, in writing, within five (5) days of any change in
10 employment status. Respondent shall notify the Board, in writing, if he is terminated or
11 separated, regardless of cause, from any nursing or health care related employment with a full
12 explanation of the circumstances surrounding the termination or separation.

13 **8. EMPLOYMENT REQUIREMENTS AND LIMITATIONS.** Respondent shall
14 work in his licensed capacity in the state of California. This practice shall consist of no less than
15 six (6) continuous months and of no less than twenty (20) hours per week.

16 Respondent shall not work for a nurses' registry or in any private duty position, a temporary
17 nurse placement agency, as a faculty member in an accredited or approved school of nursing, or
18 as an instructor in a Board approved continuing education course except as approved, in writing,
19 by the Board. Respondent shall work only on a regularly assigned, identified and predetermined
20 work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

21 **9. SUPERVISION REQUIREMENTS.** Before commencing or continuing
22 employment in any health care profession, Respondent shall obtain approval from the Board of
23 the supervision provided to the respondent while employed.

24 Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the
25 person who oversees or directs licensed vocational nurses, psychiatric technicians, certified
26 nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during
27 the period of probation except as approved, in writing, by the Board.

28 ///

1 10. **COMPLETION OF EDUCATIONAL COURSE(S).** Respondent, at his own
2 expense, shall enroll and successfully complete a course(s) substantially related to the violation(s)
3 no later than the end of the first year of probation.

4 The coursework shall be in addition to that required for license renewal. The Board shall
5 notify the respondent of the course content and number of contact hours required. Within thirty
6 (30) days of the Board's written notification of assigned coursework, Respondent shall submit a
7 written plan to comply with this requirement. The Board shall approve such plan prior to
8 enrollment in any course of study.

9 Upon successful completion of the course, respondent shall submit "original" completion
10 certificates to the Board within thirty (30) days of course completion.

11 11. **MAINTENANCE OF VALID LICENSE.** Respondent shall, at all times, maintain
12 an active current license with the Board including any period of suspension.

13 If an initial license must be issued (Statement of Issues) or a license is reinstated, probation
14 shall not commence until a license is issued by the Board. Respondent must complete the
15 licensure process within two (2) years from the effective date of the Board's decision.

16 Should Respondent's license expire, by operation of law or otherwise, upon renewal or
17 reinstatement, Respondent's license shall be subject to any and all conditions of this probation not
18 previously satisfied.

19 12. **LICENSE SURRENDER.** During probation, if Respondent ceases practicing due to
20 retirement, health reasons, or is otherwise unable to satisfy the conditions of probation,
21 Respondent may surrender his license to the Board. The Board reserves the right to evaluate
22 Respondent's request and to exercise its discretion whether to grant the request without further
23 hearing. Upon formal acceptance of the tendered license, Respondent will no longer be subject to
24 the conditions of probation.

25 Surrender of Respondent's license shall be considered a disciplinary action and shall
26 become a part of Respondent's license history with the Board. A licensee who surrenders his
27 license may petition the Board for reinstatement no sooner than the following minimum periods
28 from the effective date of the disciplinary decision for the surrender:

1 Three (3) years for reinstatement of a license surrendered for any reason other than a mental
2 or physical illness; or One (1) year for a license surrendered for a mental or physical illness.

3 13. **CHEMICAL DEPENDENCY SUPPORT & RECOVERY GROUPS.** Within
4 five (5) days of the effective date of the Decision, Respondent shall begin attendance at a
5 chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse
6 Support Group). Verified documentation of attendance shall be submitted by the respondent with
7 each written report as required by the Board. Respondent shall continue attendance in such a
8 group for the duration of probation.

9 14. **ABSTAIN FROM CONTROLLED SUBSTANCES.** Respondent shall completely
10 abstain from the personal use or possession of controlled substances, as defined in the California
11 Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of
12 the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for
13 a bona fide illness.

14 15. **ABSTAIN FROM USE OF ALCOHOL.** Respondent shall completely abstain
15 from the use of alcoholic beverages and products containing alcohol.

16 16. **SUBMIT BIOLOGICAL FLUID SAMPLES.** Respondent shall immediately
17 submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee.
18 There will be no confidentiality in test results; positive test results will be immediately reported to
19 the Board and the respondent's current employer.


20 17. **VIOLATION OF PROBATION.** If Respondent violates the conditions of his
21 probation, the Board, after giving the respondent notice and an opportunity to be heard, may set
22 aside the stay order and impose the stayed discipline (revocation) of the respondent's license. If
23 during probation, an accusation or petition to revoke probation has been filed against the
24 respondent's license or the Attorney General's Office has been requested to prepare an accusation
25 or petition to revoke probation against the respondent's license, the probationary period shall
26 automatically be extended and shall not expire until the accusation or petition has been acted
27 upon by the Board.

28 ///

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Vocational Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Vocational Nursing and Psychiatric Technicians.

DATED: 10/31/11


QUANG MINH NGUYEN
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians of the Department of Consumer Affairs.

Dated: 11/2/11

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General



AMANDA DODDS
Senior Legal Analyst
Attorneys for Complainant

SD2011800075

Exhibit A

Statement of Issues No. VN-2010-294

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

Case No. VN-2010-294

13 **QUANG MINH NGUYEN**
14 **10682 Pearl Street**
Garden Grove, CA 92840

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Statement of Issues
20 solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and
21 Psychiatric Technicians, Department of Consumer Affairs.

22 2. On or about June 24, 2010, the Board of Vocational Nursing and Psychiatric
23 Technicians, Department of Consumer Affairs received an application for a Vocational Nurse
24 License from Quang Minh Nguyen (Respondent). On or about June 21, 2010, Quang Minh
25 Nguyen certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. Respondent filed an application for "re-examination" for a
27 Vocational Nurse License on August 23, 2010. The Board denied the application on January 14,
28 2011.

JURISDICTION

3. This Statement of Issues is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2866 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

....

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

1 (B) The board may deny a license pursuant to this subdivision only if the
2 crime or act is substantially related to the qualifications, functions, or duties of the
business or profession for which application is made. . . .

3 7. Section 482 of the Code states:

4 Each board under the provisions of this code shall develop criteria to evaluate
5 the rehabilitation of a person when:

6 (a) Considering the denial of a license by the board under Section 480; or

7 (b) Considering suspension or revocation of a license under Section 490.

8 Each board shall take into account all competent evidence of rehabilitation
furnished by the applicant or licensee.

9 8. Section 2878 of the Code states:

10 The Board may suspend or revoke a license issued under this chapter [the
11 Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)] for any of the
following:

12 (a) Unprofessional conduct, which includes, but is not limited to, the
13 following:

14

15 (f) Conviction of a crime substantially related to the qualifications, functions,
and duties of a licensed vocational nurse, in which event the record of the conviction
16 shall be conclusive evidence of the conviction.

17

18 9. Section 2878.5 of the Code states:

19 In addition to other acts constituting unprofessional conduct within the meaning
20 of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for
a person licensed under this chapter to do any of the following:

21

22 (b) Use any controlled substance as defined in Division 10 of the Health and
23 Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic
beverages, to an extent or in a manner dangerous or injurious to himself or herself,
24 any other person, or the public, or to the extent that the use impairs his or her ability
to conduct with safety to the public the practice authorized by his or her license.

25 (c) Be convicted of a criminal offense involving possession of any narcotic or
26 dangerous drug, or the prescription, consumption, or self-administration of any of the
substances described in subdivisions (a) and (b) of this section, in which event the
27 record of the conviction is conclusive evidence thereof.

28

10. Section 2878.6 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a licensed vocational nurse is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 2521, states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Procuring a license by fraud, misrepresentation, or mistake.

(b) A conviction of practicing medicine without a license in violation of Chapter 5 of Division 2 of the Business and Professions Code.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

(d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and Professions Code.

(e) Conviction of a crime involving fiscal dishonesty.

(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

12. California Code of Regulations, title 16, section 2522, states:

When considering a) the denial of a license under Section 480 of the Business and Professions Code, b) the suspension or revocation of a license on the ground that a licensee has been convicted of a crime, or c) a petition for reinstatement of a license under Section 2787.7 of the Business and Professions Code, the Board in evaluating

1 the rehabilitation of an individual and his or her present eligibility for a license, will
2 consider the following criteria:

- 3 (1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.
- 4 (2) Actual or potential harm to the public.
- 5 (3) Actual or potential harm to any patient.
- 6 (4) Overall disciplinary record.
- 7 (5) Overall criminal actions taken by any federal, state or local agency or court.
- 8 (6) Prior warnings on record or prior remediation.
- 9 (7) Number and/or variety of current violations.
- 10 (8) Mitigation evidence.
- 11 (9) In case of a criminal conviction, compliance with terms of sentence and/or
12 court-ordered probation.
- 13 (10) Time passed since the act(s) or offense(s) occurred.
- 14 (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to
15 Penal Code section 1203.4.
- 16 (12) Cooperation with the Board and other law enforcement or regulatory
17 agencies.
- 18 (13) Other rehabilitation evidence.

19 FIRST CAUSE FOR DENIAL OF APPLICATION

20 (June 28, 2005 Criminal Convictions for DUI on April 25, 2005)

21 13. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
22 of the Code in that he was convicted of crimes that are substantially related to the qualifications,
23 duties, and functions of a licensed vocational nurse. The circumstances are as follows:

24 a. On or about June 28, 2005, in a criminal proceeding entitled *People of the*
25 *State of California v. Quang Minh Nguyen*, in Orange County Superior Court, case number
26 05WM05879, Respondent was convicted on his plea of guilty to violating Vehicle Code sections
27 23152, subdivision (a), driving under the influence of alcohol; and 23152, subdivision (b), driving
28 with a blood alcohol concentration (BAC) of .08 percent or more, misdemeanors.

b. As a result of the convictions, on or about June 28, 2005, Respondent was
sentenced to three years informal probation. Respondent was further ordered to pay \$835.75 in

1 fines, fees, and restitution, complete a three-month Level 1 First Offender Program, and to
2 comply with the terms of probation. Respondent's driver's license was restricted to allow driving
3 to work, school and his treatment center for a period of 90 days. On or about August 31, 2005, a
4 hearing was held and Respondent's probation was revoked for failure to enroll in the Level 1
5 program and make payments towards his fines. Respondent was ordered to serve 13 days in the
6 Orange County Jail. Probation was reinstated on the same terms and conditions. On or about
7 September 16, 2005, Respondent's probation was revoked based on his conviction for driving
8 under the influence in case number 05WM09072, detailed in paragraph 14, below. Respondent
9 was ordered to serve 30 days in the Orange County Jail to run consecutive to his sentence in case
10 number 05WM09072. Additionally, Respondent was ordered to attend and complete an 18-
11 month Multiple Offender Alcohol Program, to run concurrent with the sentencing on his
12 conviction detailed below.

13 c. The facts that led to the conviction were that in or about the early morning
14 hours of April 25, 2005, officers from the Garden Grove Police Department were patrolling in
15 two separate vehicles. As they entered an intersection, Respondent, who was driving his vehicle
16 at a high rate of speed, made a turn directly in front of the lead officer against a red light. The
17 officers had to quickly brake to avoid a collision. Respondent continued at a high rate of speed
18 and made another turn. The officers followed with their emergency lights; Respondent drove
19 through a stop sign at an intersection without stopping, and finally yielded. The officers
20 contacted Respondent, who was the sole occupant of the vehicle. The officer noted that
21 Respondent's eyes were watery and bloodshot and he had a moderate odor of an alcoholic
22 beverage emitting from his breath and person. Respondent was unable to perform the field
23 sobriety tests as explained and demonstrated by the officer. Based on Respondent's objective
24 symptoms of intoxication and his performance on the field sobriety tests, he was arrested for
25 driving under the influence of alcohol. At the Garden Grove Police Department, Respondent
26 provided a blood sample which was analyzed with a BAC of .15 percent.

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3
4
5

6
7
8
9
10
11
12
13
14

15
16
17
18
19
20

21
22
23
24
25
26
27
28

1 field sobriety tests as explained and demonstrated by the officer. Based on Respondent's
2 objective symptoms of intoxication and his performance on the field sobriety tests, he was
3 arrested for driving under the influence of alcohol. At the Garden Grove Police Department,
4 Respondent provided a blood sample which was analyzed with a BAC of .13 percent.

5 THIRD CAUSE FOR DENIAL OF APPLICATION

6 (February 5, 2007 Criminal Conviction for

7 Possession of Burglary Tools on January 5, 2007)

8 15. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
9 of the Code in that he was convicted of a crime that is substantially related to the qualifications,
10 duties, and functions of a licensed vocational nurse. The circumstances are as follows:

11 a. On or about February 5, 2007, in a criminal proceeding entitled *People of*
12 *the State of California v. Quang Minh Nguyen*, in Orange County Superior Court, case number
13 07HM00846, Respondent was convicted on his plea of guilty to violating Penal Code section 466,
14 possession of burglary tools, a misdemeanor.

15 b. As a result of the conviction, on or about February 5, 2007, Respondent
16 was sentenced to serve two days in the Orange County Jail, with credit for two days and pay \$145
17 in fees, fines, and restitution. On or about October 5, 2007, the court granted Respondent's
18 Petition for Relief under Penal Code section 1203.4, subdivision (a). The guilty plea was set
19 aside and the case was dismissed.

20 c. The facts that led to the conviction were that in or about the afternoon of
21 January 5, 2007, a patrol officer from the Irvine Police Department conducted a traffic stop on
22 Respondent for having a fraudulent registration sticker displayed on his license plate.
23 Respondent stated he did not have a valid registration for his vehicle and that he got the sticker
24 from a friend. Respondent gave vague, unsubstantiated reasons why he was in a commercial
25 area, which was not near his home or employment or treatment center, pursuant to his restricted
26 driver's license. Respondent allowed the officer to search his vehicle. In the door handle of the
27 driver's door the officer found 14 broken, porcelain spark plug chips which can be used to break
28 vehicle windows and other glass to commit burglaries. In the compartment beneath the door

1 handle, the officer found a 10-inch flat tip screwdriver. When asked about the spark plug chips,
2 Respondent denied they were his and said they belonged to a friend who had borrowed his
3 vehicle. Based on the evidence, the officer formed the opinion that Respondent possessed
4 burglary tools and he was arrested.

5 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

6 **(Acts, if Done by a Licentiate, Would be Grounds for License Suspension or Revocation)**

7 16. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
8 of the Code in that he committed acts, that if done by a licensed vocational nurse, would be
9 grounds for suspension or revocation of the license. The circumstances are as follows:

10 a. On or about June 28, 2005, September 16, 2005, and February 5, 2007, as
11 detailed in paragraphs 13-15, above, Respondent was convicted of crimes substantially related to
12 the qualifications, functions, and duties of a licensed vocational nurse, which are grounds for
13 discipline under section 2878, subdivision (f) of the Code.

14 b. On or about April 25, 2005 and July 15, 2005, Respondent used alcoholic
15 beverages to an extent or in a manner that was potentially dangerous or injurious to himself and
16 the public when he operated a motor vehicle while intoxicated, which are grounds for discipline
17 under section 2878.5, subdivision (b) of the Code.

18 c. On or about June 28, 2005 and September 16, 2005, as detailed in paragraphs
19 13-14, above, Respondent was convicted of alcohol-related offenses which are grounds for
20 discipline under section 2878.5, subdivision (c).

21 ///

22 ///

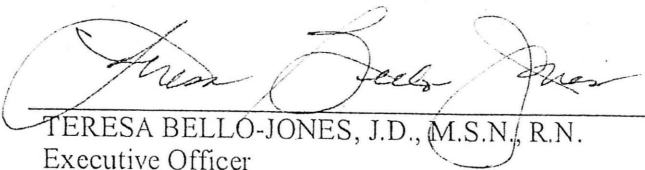
23 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
4 issue a decision:

- 5 1. Denying the application of Quang Minh Nguyen for a Vocational Nurse License;
6 2. Taking such other and further action as deemed necessary and proper.
7

8 DATED: May 13, 2011.


9 TERESA BELLO-JONES, J.D., M.S.N., R.N.
10 Executive Officer
11 Board of Vocational Nursing and Psychiatric Technicians
12 Department of Consumer Affairs
13 State of California
14 Complainant

15 SD2011800075
16 80500180.doc
17
18
19
20
21
22
23
24
25
26
27
28